



February 16, 2005

SENATE BILL No. 421

DIGEST OF SB 421 (Updated February 14, 2005 12:14 pm - DI 102)

Citations Affected: IC 3-9.

Synopsis: Campaign finance reporting. Requires certain candidates and political action committees to electronically file reports with the election division beginning in 2006. Requires: (1) an individual who makes an expenditure of at least \$1,000 to influence an election for state or legislative office; or (2) an individual, a corporation, or a labor organization that makes an expenditure of at least \$1,000 to influence the outcome of a statewide public question; to file a report with the election division. Requires: (1) an individual who makes an expenditure of at least \$1,000 to influence an election for a local office; or (2) an individual, a corporation, or a labor organization that makes an expenditure of at least \$1,000 to influence the outcome of a local public question; to file a report with a county election board. Provides for civil penalties.

Effective: July 1, 2005.

Lawson C

January 13, 2005, read first time and referred to Committee on Elections and Civic Affairs.
February 15, 2005, amended, reported favorably — Do Pass.

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SB 421—LS 7798/DI 102+



February 16, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 421

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-9-2-5 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A contribution:

- 3 (1) authorized under subsection (c) or section 4 of this chapter;
4 (2) to a committee by a corporation or labor organization; and
5 (3) designated by that corporation or labor organization for
6 disbursement to a specific candidate, central committee, or other
7 regular party committee;

8 is subject to the limitations in section 4 of this chapter.

9 (b) A corporation or labor organization may make a donation to
10 cover any amount of administrative costs (as described in
11 IC 3-5-2-15(e)) to a political action committee established and
12 controlled by the corporation or labor organization. A donation made
13 under this subsection is not considered a contribution or an expenditure
14 by the corporation or labor organization.

15 (c) A corporation or labor organization may make a contribution to
16 a political action committee if the contribution:

- 17 (1) does not exceed any of the limits prescribed under section 4

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of this chapter; and

(2) is designated for disbursement to a specific candidate **category** or committee **category** listed under section 4 of this chapter.

SECTION 2. IC 3-9-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The election division shall develop a filing and coding system consistent with the purposes of this article. The election division and each county election board shall use the filing and coding system. The coding system must provide:

(1) not more than ten (10) codes to account for various campaign expenditure items; and

(2) a clear explanation of the kinds of expenditure items that must be accounted for under each code.

(b) The election division shall develop and use a computer system to store campaign finance reports required to be filed under IC 3-9-5-6, IC 3-9-5-10, ~~and~~ IC 3-9-5-20.1, **and IC 3-9-7-4**. The computer system must enable the election division to do the following:

(1) Identify all candidates or committees:

(A) that received contributions from a contributor; **or**

(B) **for whom an individual made an independent expenditure;**

over the past three (3) years.

(2) Identify all:

(A) contributors to a candidate or committee; **and**

(B) **individuals who made an independent expenditure;**

over the past three (3) years.

(3) Provide for electronic submission, retrieval, storage, and disclosure of campaign finance reports of candidates for the following:

(A) Legislative office.

(B) State office.

The election division shall provide training at no cost to candidates to enable candidates described in this subdivision to file campaign finance reports electronically.

(c) The election division shall notify each candidate's committee that the election division will provide at the committee's request at no cost a standardized software program to permit the committee to install the software on a computer and generate an electronic version of the reports and statements required to be filed with the election division under this article. However, the election division is not required to provide or alter the software program to make the program compatible for installation or operation on a specific computer.

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(d) This subsection applies after December 31, 2005, to the following committees:

(1) A committee for a candidate seeking election to a state office.

(2) A political action committee that has received more than fifty thousand dollars (\$50,000) in contributions since the close of the previous reporting period.

The committee must file electronically the report or statement required under this article with the election division using a standardized software program supplied to the committee without charge under subsection (c) or another format approved by the election division. An electronic filing approved by the election division under this subsection may not require manual reentry into a computer system of the data contained in the report or statement in order to make the data available to the general public under subsection (g).

~~(d)~~ (e) This subsection applies to an electronic submission under subsection (b)(3). An electronic submission must be in a format previously approved by the commission that permits the election division to print out a hard copy of the report after the receipt of the electronic submission from the candidate. Filing of a report occurs under IC 3-5-2-24.5 on the date and at the time electronically recorded by the election division's computer system. If a discrepancy exists between the text of the electronic submission and the printed report, the text of the printed report prevails until an amendment is filed under this article to correct the discrepancy.

~~(e)~~ (f) The election division is not required to accept an electronic submission unless the submission complies with subsection (b)(3). Upon receiving approval from the commission, the election division may accept an electronic submission from candidates, committees, or persons described in subsection (b)(3).

~~(f)~~ (g) The election division shall make campaign finance reports stored on the computer system under subsection (b) available to the general public through an on-line service.

SECTION 3. IC 3-9-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty under this section:

(1) Fails to file with the election division a report in the manner required under IC 3-9-5.

(2) Fails to file a statement of organization required under IC 3-9-1.

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(3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.

(4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive contributions on the committee's behalf.

(5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.

(6) Makes a contribution in the name of another person.

(7) Accepts a contribution made by one (1) person in the name of another person.

(8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.

(9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.

(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.

(11) Violates IC 3-9-2-12.

(12) Fails to designate a contribution as required by IC 3-9-2-5(c).

(13) Violates IC 3-9-3-5.

(14) Serves as a treasurer of a committee in violation of any of the following:

(A) IC 3-9-1-13(1).

(B) IC 3-9-1-13(2).

(C) IC 3-9-1-18.

(15) Fails to comply with section 4(d) of this chapter.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the commission determines that a person failed to file the amended report or statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the commission may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the commission determines that a person failed to file the report or statement of organization by the deadline prescribed under

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1 this article, the commission shall assess a civil penalty. The penalty is
 2 fifty dollars (\$50) for each day the report or statement is late, with the
 3 afternoon of the final date for filing the report or statement being
 4 calculated as the first day. The civil penalty under this subsection may
 5 not exceed one thousand dollars (\$1,000) plus any investigative costs
 6 incurred and documented by the election division. The civil penalty
 7 limit under this subsection applies to each report separately.

8 (d) This subsection applies to a person who is subject to a civil
 9 penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or
 10 (a)(10). If the commission determines that a person is subject to a civil
 11 penalty under subsection (a), the commission may assess a civil penalty
 12 of not more than one thousand dollars (\$1,000), plus any investigative
 13 costs incurred and documented by the election division.

14 (e) This subsection applies to a person who is subject to a civil
 15 penalty under subsection (a)(5). If the commission determines that a
 16 person is subject to a civil penalty under subsection (a)(5), the
 17 commission may assess a civil penalty of not more than three (3) times
 18 the amount of the contribution in excess of the limit prescribed by
 19 IC 3-9-2-4, plus any investigative costs incurred and documented by
 20 the election division.

21 (f) This subsection applies to a person who is subject to a civil
 22 penalty under subsection (a)(11). If the commission determines that a
 23 candidate or the candidate's committee has violated IC 3-9-2-12, the
 24 commission shall assess a civil penalty equal to the greater of the
 25 following, plus any investigative costs incurred and documented by the
 26 election division:

- 27 (1) Two (2) times the amount of any contributions received.
- 28 (2) One thousand dollars (\$1,000).

29 (g) This subsection applies to a person who is subject to a civil
 30 penalty under subsection (a)(12). If the commission determines that a
 31 corporation or a labor organization has failed to designate a
 32 contribution in violation of IC 3-9-2-5(c), the commission shall assess
 33 a civil penalty equal to the greater of the following, plus any
 34 investigative costs incurred and documented by the election division:

- 35 (1) Two (2) times the amount of the contributions undesignated.
- 36 (2) One thousand dollars (\$1,000).

37 (h) This subsection applies to a person who is subject to a civil
 38 penalty under subsection (a)(13). If the commission determines, by
 39 unanimous vote of the entire membership of the commission, that a
 40 person has violated IC 3-9-3-5, the commission may assess a civil
 41 penalty of not more than five hundred dollars (\$500), plus any
 42 investigative costs incurred and documented by the election division.

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(i) This subsection applies to a person who is subject to a civil penalty under subsection (a)(14). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has served as the treasurer of a committee in violation of any of the statutes listed in subsection (a)(14), the commission may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the election division.

(j) This subsection applies to a person who is subject to a civil penalty under subsection (a)(15). The commission may assess a civil penalty equal to the costs incurred by the election division for the manual entry of the data contained in the report or statement, plus any investigative costs incurred and documented by the election division.

~~(j)~~ **(k)** All civil penalties collected under this section shall be deposited with the treasurer of state in the campaign finance enforcement account.

~~(k)~~ **(l)** Proceedings of the commission under this section are subject to IC 4-21.5.

SECTION 4. IC 3-9-4-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty under this section:

(1) Fails to file with a county election board a report in the manner required under IC 3-9-5 **or IC 3-9-7-5.**

(2) Fails to file a statement of organization required under IC 3-9-1.

(3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.

(4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive contributions in the committee's behalf.

(5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.

(6) Makes a contribution in the name of another person.

(7) Accepts a contribution made by one (1) person in the name of another person.

(8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.

(9) Commingles the funds of a committee with the personal funds

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of an officer, a member, or an associate of the committee.

(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.

(11) Fails to designate a contribution as required by IC 3-9-2-5(c).

(12) Violates IC 3-9-3-5.

(13) Serves as a treasurer of a committee in violation of any of the following:

(A) IC 3-9-1-13(1).

(B) IC 3-9-1-13(2).

(C) IC 3-9-1-18.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the county election board determines that a person failed to file the report or a statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the county election board may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the board. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the county election board determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the board shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the board. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the county election board determines that a person is subject to a civil penalty under subsection (a), the board may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the board.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the county election board determines that a person is subject to a civil penalty under subsection (a)(5), the board may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by

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IC 3-9-2-4, plus any investigative costs incurred and documented by the board.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the county election board determines that a corporation or a labor organization has failed to designate a contribution in violation of IC 3-9-2-5(c), the board shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the board:

(1) Two (2) times the amount of the contributions undesignated.

(2) One thousand dollars (\$1,000).

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the county election board determines, by unanimous vote of the entire membership of the board, that a person has violated IC 3-9-3-5, the board may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the board.

(h) This subsection applies to a person who is subject to a civil penalty under subsection (a)(13). If the county election board determines, by unanimous vote of the entire membership of the board, that a person has served as the treasurer of a committee in violation of any of the statutes listed in subsection (a)(13), the board may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the board.

(i) All civil penalties collected under this section shall be deposited with the county treasurer to be deposited by the county treasurer in a separate account to be known as the campaign finance enforcement account. The funds in the account are available, with the approval of the county fiscal body, to augment and supplement the funds appropriated for the administration of this article.

(j) Money in the campaign finance enforcement account does not revert to the county general fund at the end of a county fiscal year.

(k) Proceedings of the county election board under this section are subject to IC 4-21.5.

SECTION 5. IC 3-9-7-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 4. (a) This section applies to the following:**

(1) An individual who makes an expenditure of at least one thousand dollars (\$1,000) to influence an election.

(2) A corporation or labor organization that makes an expenditure of at least one thousand dollars (\$1,000) to support or oppose the approval of a public question.

(b) This section does not apply to:

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(1) an individual, a firm, or a partnership that makes a contribution to a candidate or a committee; or

(2) a corporation or labor organization that makes:

(A) a contribution to a political committee; or

(B) an expenditure to support or oppose a candidate or a political party.

(c) An individual, a corporation, or a labor organization that is subject to this section shall file a statement with the election division under IC 3-9-5-2 or IC 3-9-5-3.

(d) The statement required under subsection (c) must contain the information required by IC 3-9-5.

(e) The statement required under subsection (c) must be filed by the same date and hour that a political action committee is required to file a report with the election division concerning the election for which the expenditure was made.

SECTION 6. IC 3-9-7-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) This section applies to the following:

(1) An individual who makes an expenditure of at least one thousand dollars (\$1,000) to influence an election.

(2) A corporation or labor organization that makes an expenditure of at least one thousand dollars (\$1,000) to support or oppose the approval of a public question.

(b) This section does not apply to:

(1) an individual, a firm, or a partnership that makes a contribution to a candidate or a committee; or

(2) a corporation or labor organization that makes:

(A) a contribution to a political committee; or

(B) an expenditure to support or oppose a candidate or a political party.

(c) An individual, a corporation, or a labor organization that is subject to this section shall file a statement with the county election board under IC 3-9-5-3 or IC 3-9-5-4.

(d) The statement required under subsection (c) must contain the information required by IC 3-9-5.

(e) The statement required under subsection (c) must be filed by the same date and hour that a political action committee is required to file a report with the county election board concerning the election for which the expenditure was made.

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COMMITTEE REPORT

Madam President: The Senate Committee on Elections and Civic Affairs, to which was referred Senate Bill No. 421, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-9-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A contribution:

- (1) authorized under subsection (c) or section 4 of this chapter;
- (2) to a committee by a corporation or labor organization; and
- (3) designated by that corporation or labor organization for disbursement to a specific candidate, central committee, or other regular party committee;

is subject to the limitations in section 4 of this chapter.

(b) A corporation or labor organization may make a donation to cover any amount of administrative costs (as described in IC 3-5-2-15(e)) to a political action committee established and controlled by the corporation or labor organization. A donation made under this subsection is not considered a contribution or an expenditure by the corporation or labor organization.

(c) A corporation or labor organization may make a contribution to a political action committee if the contribution:

- (1) does not exceed any of the limits prescribed under section 4 of this chapter; and
- (2) is designated for disbursement to a specific candidate **category** or committee **category** listed under section 4 of this chapter."

Page 8, line 16, after "expenditure" insert "**of at least one thousand dollars (\$1,000)**".

Page 8, line 19, after "expenditure" insert "**of at least one thousand dollars (\$1,000)**".

Page 8, line 40, after "expenditure" insert "**of at least one thousand dollars (\$1,000)**".

Page 9, line 1, after "expenditure" insert "**of at least one thousand dollars (\$1,000)**".

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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to SB 421 as introduced.)

LAWSON C, Chairperson

Committee Vote: Yeas 7, Nays 4.

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